struction appears to be that under the bankruptcy laws any United States District Court has jurisdiction of the question of bankruptcy in the case of a voluntary petition.[12] This would mean that *any* federal court can make adjudication binding against all creditors, though there is no personal jurisdiction over the creditors, and further, as a consequence of this, the court's ultimate declaration of bankruptcy cannot be questioned. The correctness of a construction reaching such a result is at least arguable.

RECENT CASES

ADOPTION — RIGHTS OF CHILD UNDER UNEXECUTED CONTRACT OF ADOPTION. — One Cameron contracted to adopt the plaintiff, who therefore lived in his family as a daughter until his death. There was no actual adoption. The plaintiff now claims an interest in the estate of Cameron's son, who died intestate survived only by a brother. *Held*, that the plaintiff may not recover. *Malaney* v. *Cameron*, 161 Pac. 1180 (Kan.).

To take by inheritance, a foster child must be adopted in the manner provided by statute. See *Chehak* v. *Battles*, 133 Ia. 107, 114–115, 110 N. W. 330, 333. But when the foster parent has died without performing a contract to adopt, equity will generally grant relief, although the adoption itself cannot actually be carried out at law after the adoptive parent's death. *Starnes* v. *Hatcher*, 121 Tenn. 330, 117 S. W. 219. If the contract contains an express provision to leave property, this will be specifically enforced. *Pemberton* v. *Pemberton's Heirs*, 76 Neb. 669, 107 N. W. 996. But *cf. Jaffee* v. *Jacobson*, 48 Fed. 21. In the absence of an express provision, the contract may also be specifically enforced as an agreement to give such property as a natural child would have received. *Lynn* v. *Hockaday*, 162 Mo. 111, 61 S. W. 885; *contra*, *Renz* v. *Drury*, 57 Kan. 84, 45 Pac. 71. This is sound, since the chief remaining incident of a legal adoption is the right of inheritance. There is, however, no obligation on the parent not to dispose of his property to others. *Austin* v. *Davis*, 128 Ind. 472, 26 N. E. 890. That the child be made an heir is thus the substance of the contract to adopt. It may therefore be said that as a consequence of the right of specific performance the child is regarded in equity as adopted. See *Lynn* v. *Hockaday*, *supra*. But this equitable relation, arising solely from the contract, can give the child rights only against the parent or his property. There is thus no way to reach the property of relatives. Even when an adoption is legally completed, inheritance from collateral relatives must be specifically provided for by statute. *Wallace* v. *Noland*, 246 Ill. 535, 92 N. E. 956.

ATTORNEYS — DUTY TO THE COURT — DUTY TO DISCLOSE TRUTH IN A CRIMINAL CASE. — An experienced attorney defending a criminal, permitted a witness to testify falsely upon a collateral matter affecting the witness's credibility, and though he knew it to be false, he adopted the testimony as true in his summing up. There was no evidence that the attorney instigated the false testimony. *Held*, that he be disbarred. *In re Palmieri*, 162 N. Y. Supp. 799 (App. Div.).

By rule five of the Canons of Ethics of the American Bar Association, a lawyer who has undertaken to defend a criminal "is bound by all fair and honorable

[12] The facts of the case go no further than a voluntary petition, but on principle there would seem to be no distinction between a voluntary and an involuntary proceeding as to this question, provided that the court had jurisdiction of the bankrupt in the latter case.

means, to present any defense that the law of the land permits." See also SHARSWOOD, PROFESSIONAL ETHICS, 5 ed., 90–92. This, of course, does not justify any positive obstruction of justice. *In re Billington*, 156 App. Div. 63, 141 N. Y. Supp. 16; *In re Lane*, 93 Minn. 425, 101 N. W. 613. Generally, it is the duty of a lawyer to divulge the truth, even though this should be damaging to his client. *People* v. *Beattie*, 137 Ill. 553, 27 N. E. 1096; *In re Schapiro*, 144 App. Div. 1, 128 N. Y. Supp. 852. See KINKEAD, JURISPRUDENCE, LAW, AND ETHICS, 329. But see WARVELLE, ETHICS, § 170. Just how far this rule applies in a criminal case, is a difficult question. There is certainly no duty to disclose a confession. See *Courvoisier's Case*, Appendix to SHARSWOOD, PROFESSIONAL ETHICS, 5 ed., 183. But an attorney who knowingly adopts false testimony as true, perpetrates a fraud upon the court, and this would seem to be improper, even in a criminal case. Some courts have attempted to establish definite rules, as to what conduct will justify disbarment. *In re Cahill*, 66 N. J. L. 527, 50 Atl. 119. Clearly, it is not necessary that the lawyer shall have committed a crime. *In re Hardenbrook*, 135 App. Div. 634, 121 N. Y. Supp. 250. Tested by precedent, the punishment in the principal case seems unusually severe. *In re Newman*, 158 App. Div. 471, 143 N. Y. Supp. 590. *Cf. In re Cahill*, *supra*. But precedent is of little value on such a question. The punishment to be given should depend upon the particular facts of each case, and must rest largely in the discretion of the court. See *In re Attorney*, 10 App. Div. 491, 513, 42 N. Y. Supp. 268, 282.

BANKRUPTCY — DISCHARGE — DEBTS NOT AFFECTED — WILFUL AND MALICIOUS INJURY TO PROPERTY. — A broker held stock of a customer as security for the latter's indebtedness. The broker wrongfully sold the stock and appropriated the proceeds. Later he was adjudicated bankrupt and received a discharge. The customer sues for the conversion, claiming that it was a wilful and malicious injury to his property and hence was not discharged. *Held*, that the customer may recover. *McIntyre* v. *Kavanaugh*, 242 U. S. 138.

The present Bankruptcy Act includes among the debts not barred by a discharge those created by a misappropriation while acting in a fiduciary capacity. BANKRUPTCY ACT, § 17 *a* (4). The Acts of 1841 and 1867 also contained this provision. It was held under the Act of 1841 that "fiduciary" meant express trust and that therefore a principal's claim against his factor was not discharged. *Chapman* v. *Forsyth*, 2 How. (U. S.) 202. Similarly, under the Act of 1867 brokers as well as factors and commission merchants were considered not to be fiduciaries. *Hennequin* v. *Clews*, 111 U. S. 676. Accordingly, when the present Act went into effect the courts felt bound to follow the established course of decisions on this point, and hold that a broker was not discharged under § 17 *a* (4). *Crawford* v. *Burke*, 195 U. S. 176, 189. However, the present Act denies a discharge also of liabilities for wilful and malicious injuries to property. BANKRUPTCY ACT, § 17 *a* (2). The attitude of the courts under 17 *a* (4) had been one of tenderness toward the bankrupt, as is evidenced by the decisions just alluded to. The lower federal courts, following the same policy under § 17 *a* (2), decided that a conversion was not a "wilful and malicious" injury. *Matter of Ennis & Stoppani*, 171 Fed. 755. The state courts, however, seemed to take the opposite view. *Kavanaugh* v. *McIntyre*, 210 N. Y. 175, 104 N. E. 135; *Hallagan* v. *Dowell*, 139 N. W. 883 (Iowa). See COLLIER, BANKRUPTCY, 10 ed., 395. And the Supreme Court several years ago decided that "malicious" does not connote any evil motive toward the injured party. *Tinker* v. *Colwell*, 193 U. S. 473, 485. That decision paved the way for the holding in the principal case — that the conversion by the broker was a malicious injury to property. This construction not only shows a much stricter attitude toward the bankrupt, but also goes so far as to be questionable, for the requirement of malice would ordinarily not be found in the unjustifiable appropriation of the property of another and